IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE GODA RAGHURAM

-

WRIT PETITION NO : 20316 of 2004

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Between:

R. Yadagiri, S/o. Hanmandlu,
R/o. Dwarakanagar, Near Rural Police Station, Karimnagar,
Karimnagar District.

..... PETITIONER

AND

1 The Engineer-in-Chief Public Health, A.C. Guards, Hyderabad - 004.
2 The Superintendent Engineer, Public Health, Warangal, Warangal District.
3 The Municipal Commissioner, Karimnagar Municipality, Karimnagar.
4 The Municipal Commissioner, Mandamarri Municipality,
Mandamarri, Adilabad District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or Direction, more particularly one in nature of Writ of MANDAMUS or any other Writ, declaring the order dt. 01-11-2004 in O.A.Sr.No. 12979/2004 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad is arbitrary, unjust and violative of Art.14 of the Constitution of India and consequently direct the Hon'ble A.P.Administrative Tribunal at Hyderabad to register the O.A.Sr.No.12979/2004.

Counsel for the Petitioner: MR.V.VISWANATHAM

Counsel for the Respondents 1 to 3: GP FOR MUNCIPAL ADMN. & URBAN DEV.

Counsel for the Respondent No.4: Mr.R.Thimma Reddy

The Court at the admission stage made the following:

ORDER: (Per the Hon'ble Sri Justice Goda Raghuram)

Aggrieved by the order of the A.P. Administrative Tribunal dated 01.11.2004 sustaining the office objection in O.A.(sr).No.12979 of 2004, the applicant is before this Court.

2. The petitioner is working as a Municipal Assistant Engineer in the Municipal service. By proceedings dated 28.11.2002, he was posted at Karimnagar Municipality on the request of the Chairperson and Hon'ble M.L.A of Karimnagar constituency. By proceedings dated 30.09.2004, his earlier redeployment to Karimnagar Municipality was cancelled and the petitioner was directed to report to the substantive post in the fourth respondent's office at Mandamarri Municipality. Aggrieved, he submitted a representation dated 06.10.2004 to the first respondent and filed O.A. on 29.10.2004 before the A.P. Administrative Tribunal (for short 'the Tribunal'). The Registry of the Tribunal recorded an office objection that under clause (b) of sub-section (2) of Section 20 of the Administrative Tribunals Act, 1985, (for short 'the Act'), the petitioner was required to wait for a period of six months after making a representation before approaching the Tribunal for relief unless the representation had been decided in the meanwhile adverse to his interest. As the petitioner contested the said office objection, the matter was posted before the Tribunal on its judicial side and by the order impugned herein, the office objection was sustained.

3. Section 20 of the Act reads as hereunder:

> **"20. Application not to be admitted unless other remedies exhausted:-**
> (1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.
>
> (2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules

as to redressal of grievances,--

(a) if a final order has been made by Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance; or

(b) where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired.

(3) For the purposes of sub-sections (1) and (2), any remedy available to an applicant by way of submission of a memorial to the President or to the Governor of a State or to any other functionary shall not be deemed to be one of the remedies which are available unless the applicant had elected to submit such memorial."

Sub-section 1 of Section 20 of the Act makes it clear that the wait period of six months from the date a representation is made for enabling a person to approach the Tribunal for relief, is not an invariable rule that rigidly bars approach to the Tribunal.

Sub-section 1 of Section 20 of the Act enacts that the Tribunal shall not admit an application ordinarily unless it is satisfied that the applicant had availed all the remedies available to him under the relevant service rules as to the redressal of grievance. Availing of all such remedies is however not a *sine quo non* in every case. In a case of transfer, if a person is required to wait for a period of six months, the very purpose of a remedy before the Tribunal under the provisions of the Act would be rendered nugatory.

4. In the circumstances and in the light of the phraseology employed in Section 20 (1) of the Act, we are of the considered view that the office objections of the Tribunal as have been sustained by the order impugned, are in error.

5. On merits, the petitioner was earlier transferred on redeployment terms to the Karimnagar Municipality at the request of the Chairperson and the M.L.A. of the Karimnagar constituency. This was in November, 2002. Nearly two years thereafter, in September 2004, by the order impugned in the O.A., the

petitioner's redeployment was rescind and he was posted to his substantive post in the Mandamarry Municipality. The petitioner has no manner of legal right to resist his redeployment to the Karimnagar Municipality. The cancellation of his redeployment is pursuant to an administrative discretion. In the absence of any pleaded or established malafides and in view of the fact that his earlier redeployment order itself was on considerations not strictly germane to appropriate administrative procedures, we find no reasons for interdicting the order dated 30.09.2004, cancelling the petitioner's redeployment.

6. In the circumstances, while declaring that the petitioner is not entitled to the substantive relief in the O.A., we record that the Tribunal was in error in passing the order dated 01.11.2004, for the reasons already recorded.

7. Accordingly, we dispose of the writ petition at the stage of admission. No costs.

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J.CHELAMESWAR, J

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GODA RAGHURAM, J

Dated 05th November, 2004.

ycr/pgs

To

1. The Engineer-in-Chief Public Health, A.C. Guards, Hyderabad - 004.
2. The Superintendent Engineer, Public Health, Warangal, Warangal

District.
3. The Municipal Commissioner, Karimnagar Municipality, Karimnagar.
4. The Municipal Commissioner, Mandamarri Municipality,
   Mandamarri, Adilabad District.

5. 2 CCs to G.P for Muncipal Administration and Urban Development,

High Court Buildings, Hyderabad. (OUT)

6. 2 C.D. copies.